

LATE TESTIMONY

TO: The House of Representatives
Committee on Transportation

FROM: Steven T. Barta, as an individual
and Lobbyist for Lynn Ramer
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SUBJECT: HB 2320 - Testimony in Favor, but with revisions

Hearing Date: Monday, January 30 2012
Time: 9:00 a.m.
Place: Conference Room 309

Chair Souki, Vice Chair Ichuyama, and members of the Committee on Transportation, thank you for allowing me to present testimony on House Bill 2320.

My name is Steve Barta. I am an attorney with over twenty-five years of experience in the area of prosecuting and defending citizens who have lost their driver's license because of drunk driving. I started my career over twenty-five years ago as a Honolulu deputy prosecutor with a lead role in prosecuting drunk drivers; I spoke on behalf of MADD and trained police personnel and other deputy prosecutors on how to handle drunk driving cases. I presently represent those who have run afoul of the law.

Both as a prosecutor and as a defense attorney I have seen how alcohol has destroyed the lives of those who drive and those who have been victimized as a result of drunk drivers.

I have also seen how well intending laws have destroyed peoples lives and made them dependent upon the State for support. That is why five years ago I asked Senator Hee to introduce SB 946. SB 946 was created to permit those who have lost their driver's license for life an opportunity to drive again and become productive members of our community.

For five years now I have appeared before you and other legislative committees to correct the misinformation and clarify the confusion created by special interest groups intent on reeking their vengeance on those that have been without a license for over ten years that seek another chance to drive and become productive members of our community.

I have explained over and over again the different purposes served by criminal sanctions associated with a drunk driving conviction as opposed to the sanctions attached to an administrative revocation. The purpose of an administrative license revocation is to keep the community safe while the purpose of a criminal prosecution is to punish.

The criminal penalties associated with drunk driving do not allow for a lifetime revocation; even if one is charged with a felony. Lifetime sentences are rare in our penal code and are available only where a death has occurred. Criminal sanctions intended to punish include incarceration, community service and fines.

Administrative consequences of a drunk driving charge have in the past included a lifetime revocation of one's driver's license as a means of protecting the community from those that could not control their drinking. Last year the need for this sanction disappeared with the introduction of the ignition interlock law. The availability of ignition interlock devices in Hawaii eliminated the need for lifetime revocations. And the law was amended to reflect this truth by eliminating lifetime revocations.

Under our present law a drunk driver can no longer lose their license for life. The ignition interlock requirement protects the community from a violator driving a vehicle again while intoxicated.

Unfortunately, those who lost their license for life prior to January 1, 2011, continue to be shut out and cut off by the present ignition interlock law.

There is no justifiable reason to treat those who violated our drunk driving laws prior to 2011 any different than those who are now subject to the ignition interlock law.

Accordingly, last year I drafted an amendment to House Bill 1435 which sought to put those who offended prior to 2011 on an equal footing with those that offended after 2011.

Ironically HB 1435 died last session after it crossed over and was to be heard by Senator Hee's Judiciary Committee.

HB 1435 has been redrafted and now appears before you as HB 2320. Although HB 2320 should be extolled for providing a mechanism for those with lifetime revocations a method to get relicensed, the maze enacted is draconian and

should be revised.

There is no reason to require a motorist who has been without a driver's license for 10, 15 or 20 plus years to have to endure the expenses and shame of an ignition interlock system for more than one year. HB 2320 requires a minimum period of 5 years regardless of how long the person has been without a license. The bill also gives the district unfettered discretion to deny a license even if the individual has complied with all of the safeguards set up by the bill. No reason for a denial need be given and there is no right to appeal; only an opportunity to appear again in one year and be denied again without a stated reason.

I ask that you amend the "minimum five year" requirement in HRS, Section 291E-A(e) and replace it with the ignition interlock periods I presented to you last year (see below) and eliminate the language in said section which after providing five requirements concludes, "and it appears to the court that the petitioner is not likely to operate a vehicle under the influence of an intoxicant."

Under the present ignition interlock law, a motorist who under the prior drunk driving law would have received a lifetime revocation (three or more prior alcohol enforcement contacts within 10 years) may drive, but shall be required to install and maintain an ignition interlock system for for a period of five to ten years.

Accordingly, my proposed amendment allows motorist with a lifetime revocation that have been without driving privileges for more than ten years to drive with an ignition interlock system and be eligible for re-licensing after one year (same as those who are first time offenders); those who have been without driving privileges between five to ten years to drive with an ignition interlock system and be eligible for re-licensing after eighteen months (same as those who are second time offenders); those who have been without driving privileges between two to five years to drive with an ignition interlock system and be eligible for re-licensing after two years (same as those who are third time offenders); and for those who have been without driving privileges less than two years to drive with an ignition interlock system and be eligible for re-licensing after five to ten years (same as those who are fourth time offenders);

Life time revocations became effective in Hawaii in 1991. That means there members of our community that have been without a drivers' license for twenty (20) years. The present law has done away with lifetime revocations, but it does not address the burden placed on individuals and society by those still having to live with a lifetime revocation.

The intent of my amendment is not to excuse the conduct of drunk drivers or to allow unsafe drivers back on the road. No one wants that. Rather it is to welcome back into the community those who have paid a steep price for their past indiscretions and are no longer a threat to society.

My proposed amendments rationally distinguishes between individuals. There is simply no rational reason to impose the hardship of requiring an individual who has been responsible for over ten years to endure the expense and shame of an ignition interlock system for five years; one year is sufficient.

Finally, HB 2320 needs to be amended to allow for those of our neighbors who have been forced to move because of a lifetime revocation to become relicensed if they install an ignition interlock device in their present home town.

Thank you for your consideration of these points and the opportunity to testify before your committee.

RESPECTFULLY SUBMITTED

/s/ Steven T. Barta

STEVEN T. BARTA